



**City of Northampton, Massachusetts
Planning and Development**

City Hall, 210 Main Street, Room 11
Northampton, MA 01060
(413) 587-1266 (413) 587-1264 fax

**Request for Proposals for the Sale and Development of
260 Main Street, Round House Parking Lot Parcel**

For more information, please contact Wayne Feiden, Director of Planning and Development, 413-587-1265, Wfeiden@NorthamptonMA.gov

RFP and Surplus Process Summary

RFP Released:	Thursday, May 4, 2006
Optional Pre-Bid Conference and Tour:	Contact Wayne Feiden for a private meeting
Proposals Due with Bid Security:	Wed., July 12, 2006 3:00 PM at City Hall
PURCHASER Selected:	Anticipated within 40 days of proposal deadline
Purchase and Sale signed:	Anticipated within 30 days of bid award

The City of Northampton (City) is requesting proposals and statements of qualifications from parties with real estate experience interested in developing a prime development site in downtown Northampton. Downtown Northampton is one of the most successful downtowns in the Commonwealth with vibrant activity, restaurants, shops, and a growing reputation as a cultural and restaurant destination. Mixed use is allowed and strongly encouraged in downtown Northampton. For more information about Northampton please see About Northampton at www.northamptonma.gov.

The City is offering 260 Main Street, Northampton, which is a portion of the current City-owned Round House Parking Lot, for sale to encourage economic activity. The parking lot is located just south of Main Street, with the city's primary public park between the lot and the street. The parking lot is located significantly below Main Street in elevation, providing a unique opportunity for parking below the Main Street grade with a commercial presence facing Main Street.

The successful bidder will: 1) demonstrate experience developing complex projects, bring adequate financial and technical resources to the project; 2) create economic activity that will contribute the largest amount of revenue to City coffers over a ten-year period; and 3) create additional parking, commercial space, and useable park land and a development which respects the history and character of Northampton.

After the initial due diligence period, the initial deposit and the additional deposit are non-refundable if the PURCHASER does not proceed with the purchase and the development. If the purchase is completed, these deposits shall be credited towards the purchase price or, if they exceed the purchase price, refunded to the bidder.

Additional information available on the City website and/or at City Hall, 210 Main Street, Northampton:

At Office of Planning and Development and www.northamptonma.gov/opd/mill

- Survey of site (with and without topography) prepared by Huntley Associates, showing land available for sale.
- Mill River Study prepared by Ford Gillen Architects, June 27, 2005, providing several scenarios for the reuse of the property that are designed to inspire, not limit, bidders.

At Office of Planning and Development and www.northamptonma.gov/opd/

- Northampton Zoning Ordinance
- Central Business Architecture District Ordinance AND Central Business Design Standards

At Office of Planning and Development

- Environmental reports and related documents that have been performed for or provided to the City of Northampton with respect to the Property.

- **At Mayor's Office of Economic Development**

www.northamptonma.gov/economicdevelopment/Financial%5FIncentives/Information on economic development tax incentives. The City will consider a tax incentive for a project that provides especially strong economic benefits to downtown Northampton. No commitment, however, for such relief will be made through this RFP process.

Property Description

The City of Northampton ("City") is accepting proposals for development for all or a portion of the following:

1. 47,690 square feet on the westerly side of the City's Round House Parking Lot, more particularly described as shown on the attached survey as "Land Available for Sale," with reasonable temporary construction easements, construction rights-of-entry, and access and utility easements on adjoining City property. (City Council has already surplus this property and does not need to approve the sale.)
2. Additional land owned by the City southerly and easterly of the land described above within the Round House Parking Lot parcel and an easement to allow an access bridge from New South Street, subject to any necessary easements to allow for the City's planned 10' wide Manhan Rail Trail and maintain utility corridors. (City Council has NOT surplus the land described in this paragraph. Any bid award for any bid requesting the land described in this paragraph is contingent on final City Council approval.)

The property has been assigned an address of 260 Main Street, Northampton, MA 01060. It is located within the Central Business District. Pedestrian access to the site is from Main Street and New South Street by crossing Pulaski Park. Vehicle access to the site is from Old South Street, by crossing the Round House Parking Lot and possibly from New South Street, if the PURCHASER wishes to build a bridge or a ramp.

PURCHASER'S Responsibilities and Rights retained by the City

The PURCHASER will develop and the City will retain easements, as follows:

1. Sale of the property is subject to easements for adequate use, maintenance, repair, and replacement of all city-owned utilities (including the sewer and stormwater trunk line running easterly from the New South Street Bridge and the sewer, stormwater, and water line running near and from the Pulaski Park side of the parcel) and the already designed Manhan Rail Trail. The PURCHASER may relocate said utilities, subject to DPW approved location, city construction standards and subject to PURCHASER granting an easement on the new utility easement acceptable to the City. Private utilities hold additional easements. Bay State Gas has indicated to the City informally that the gas pipelines they own have been abandoned, but Bay State Gas should be contacted directly to confirm the status and any limitations posed by these pipelines which may affect use of the Property.
2. Sale of the property is subject to easements for the public to use a staircase open 24 hours from the Round House Parking Lot to Pulaski Park. The PURCHASER may relocate said staircase, subject to City approval of location, construction standards and design and subject to the PURCHASER granting an easement on the new staircase acceptable to the City.
3. The City will retain easements to allow the public access to publicly-available parking under the terms outlined herein:
 - a. The PURCHASER shall provide 22 permanent replacement parking spaces within their building at no-charge to the owners of the "Round House" office building to match the number of parking spaces which the "Round-House" will lose as the result of this land sale. The final details of this easement are currently being negotiated.
 - b. The PURCHASER shall provide permanent replacement parking spaces to replace public-use municipal parking spaces lost to the project. These replacement spaces shall be within the PURCHASER's building or adjacent parking structure. They shall be available to the general public and shall not be reserved for tenants of the building to be built. The PURCHASER shall retain all parking revenue, provided that hourly rates may not be more than the highest hourly rate charged in the Northampton municipal parking garage. The PURCHASER may, however, establish higher event parking rates for not more than 12 events per year. Only those spaces being lost for the PURCHASER's project must be replaced.
 - c. Said parking shall be within the PURCHASER's building or any adjacent parking structure.
 - d. Said parking shall be subject to temporary reasonable closures for building construction, repair, maintenance, and replacement with prior notification and coordination with the City Parking Division.
4. The PURCHASER will fill the land being retained by the City between the northerly extent of the PURCHASER's building and the Pulaski Park fence to the Pulaski Park grade, landscape with grass to create a larger useable park area, and remove those portions of the fence which are no longer needed. Such work is subject to City DPW approval of construction methods. NO portion of Pulaski Park is available for sale to the PURCHASER.

Terms of Sale

1. Use limits and regulatory requirements:
 - a. Uses BELOW the existing Round House parking lot level are limited to mechanicals.
 - b. Uses fronting on Pulaski Park are limited to commercial uses.

- c. Any other use allowed by the Northampton Zoning for the Central Business District is allowed on this site. The Central Business District allows a wide range of commercial uses and mixed residential/commercial uses with relatively little dimensional regulations.
 - d. Northampton's zoning requires that this project obtain Site Plan Approval from the Planning Board, which will consider, among other issues, preserving light and air for surrounding buildings.
 - e. Northampton's ordinances require that this project obtain a permit from the Central Business Architecture Committee.
 - f. The façade facing Main Street must be of red brick exterior finish.
 - g. Any new building shall be located at least 10' from any window on the westerly side of the Round House office building.
 - h. In addition to the above, any project shall comply with existing ordinances and regulations. The current height limit in the Central Business District is 55 feet. The Planning Board has voted to introduce a zoning change to increase the height in the Central Business District by 10 feet, but this has not yet gone to City Council.
2. The project will address all of the requirements contained in this RFP.
 3. Structured parking must be provided to serve the needs of the proposed building.
 4. The PURCHASER shall be responsible for snow clearance from the staircase from Pulaski Park to the Round House Lot such that it is cleared of all snow and ice within 12 hours of any storm.
 5. The PURCHASER shall place all current overhead utilities immediately north of the site underground. These are the overhead utilities which are currently located between the project site and the existing power poles located southerly of the Academy of Music and the Pulaski Park play structure.
 6. A covenant shall be required that shall be binding on any tax-exempt purchaser and successors in interest for a payment-in-lieu of real estate taxes that shall be the same as if the use was not tax-exempt.
 7. The City is agreeable about working with the PURCHASER to obtain a covenant-not-to-sue from the Massachusetts Attorney General under protecting the PURCHASER from legal action for past releases of oil and hazardous materials.
 8. The PURCHASER shall release the City from and against any costs, claims or liability arising out of or relating to the conditions of or affecting the Property, including but not limited to any environmental conditions and any release or threat of release of oil or hazardous materials.

Bid Submittal Requirements

A complete bid must include, at a minimum, five copies of all of the following (except for the deposit):

1. Bid form
2. Certificate of Tax Compliance
3. Disclosure of Beneficial Interest
4. Statement of qualifications demonstrating experience developing complex projects and adequate financial and technical resources
5. Required \$5,000 bid deposit (make bank or certified check payable to "City of Northampton"). Said deposit shall be refunded within 45 days for any proposal which is

not selected. For the selected proposal, said deposit shall become non-refundable after the due diligence period detailed in this proposal.

6. The bid demonstrates experience developing complex projects, adequate financial and technical resources, and an adequate understanding of brownfield issues.
7. Using a copy of the attached survey, identify which land offered for sale is being sought.
8. Provide a sketch plan of the proposed building(s) to be developed on the site.
9. Provide a pro-forma demonstrating that the project is viable. Provide only enough information to demonstrate the financial viability of the project. The City is **not** allowed to keep this information confidential.

Selection Criteria

Proposals will be evaluated based on the following:

1. The City's evaluation of the bidder's experience of the following. Not every bidder will be an expert in all four categories, but the City will rate all four categories and identify the highest overall rating.
 - a. Developing complex projects
 - b. Financial resources
 - c. Technical resources
 - d. Brownfields experience
2. The bid demonstrates the greatest financial return to City over the next ten years, as shown on the bid form. This sum shall be calculated by the combination of initial purchase price, property tax, other locally collected taxes (but not user fees), plus credit for certain optional and required improvements, as follows:

Optional improvements with allowable credit shown

- a. Provide permanent free wireless internet services within Pulaski Park--credit \$5,000
- b. Provide permanent public access to an elevator from the Round House grade to the Pulaski Park grade available from 6:00 AM to 12:00 midnight daily--credit \$50,000.
- c. Provide permanent public access to parking spaces above what is required in this RFP that will be available to the public on the same terms outlined for the required public parking spaces---credit \$10,000 a parking space.
- d. Provide U.S. Green Building Council's LEEDS (Leadership in Energy and Environmental Design) Certification for the project—credit \$20,000.
- e. Provide \$100,000 of improvements to Pulaski Park in accordance with plans jointly approved by the PURCHASER and the City, during a public process, to improve recreation use of the park--credit \$100,000.

Required improvements with allowable credit shown

Expand Pulaski Park by filling in the area between the Pulaski Park fence and the northerly extent of the building with clean fill and landscaping the filled area--- credit \$100,000.

The City reserves the right to interview bidders if necessary for the City to complete its evaluation of bids.

This RFP is subject to the procedures set forth in and referenced by this document. While all information provided herein was obtained from sources deemed to be reliable, the City makes no representation or warranty with respect to the accuracy or completeness thereof. The City

reserves the right to negotiate with any and all bidders/developers, to waive portions of the RFP, to waive any informalities in bids/proposals, and to reject any and all bids.

Purchase and Sale, Deposit, and Performance Guarantee Terms

1. Purchase and Sale signed: Within 30 days of bid award notice, a Purchase and Sale Agreement (P&S), with the basic terms outlined in this RFP and no other substantial obligations imposed upon the city or this transaction, must be signed by the bidder, unless this time period is mutually extended by the parties, or the city has the right to cease the deposit and nullify the bid. The Purchaser shall be responsible for any new surveys or due diligence required in or by the P&S.
2. Due Diligence: The purchaser shall have 60 days from the mailing of their bid award notice to complete their due diligence as pertains to any historical release of hazardous materials and oil on the site. After said due diligence period, the bid deposit becomes non-refundable.
3. Permit applications due: Within 7 months of bid award notice, the successful bidder shall apply for all necessary permits with complete applications that reflect the permit filing requirements. Architectural drawings must be in sufficient detail to show the outside of the building to obtain a Central Business Architecture permit, but no internal building layouts are required.
4. Additional bid security: 7 months from bid award notice, the PURCHASER shall post an additional non-refundable \$10,000 deposit (which shall be credit to the purchase price or refunded if the purchase is completed and the deposit exceeds the purchase price).
5. Closing: Within 12 months of the bid award notice, unless this time period is extended by mutual agreement of the parties, the property shall close and the PURCHASER shall post a Letter of Credit or Surety Bond in a form acceptable to the City sufficient to fund the construction of the proposed building on the site. The deed shall include a reversion clause to the City if the PURCHASER ceases construction on the site for a period of more than 90 days or takes the current public parking out of public use for more than 500 days, subject to an extension by the City. Delays due to reasonable construction delays shall be granted by the City.

Property Conditions

The City advises bidders/developers to undertake their own review of Property conditions and reach their own conclusions concerning zoning, physical conditions, environmental conditions and issues, required approvals, use potential, use restrictions and other development and ownership concerns. The survey attached to this RFP shows some of the site conditions but does **not** show all site conditions which might affect the reuse of the property, including but not limited to a sanitary sewer trunk line and a stormwater sewer trunk line which run easterly from the New South Street Bridge.

The Property is a portion of the property on which a manufactured gas plant (“MGP”) operated from approximately 1855 to 1951. The City acquired the Property in 1973 and has used it and adjacent land for public parking. After receiving its consultant’s report identifying a reportable release of oil or hazardous materials associated with the former MGP on the City-owned property in September 2001, the City notified the Massachusetts Department of Environmental Protection (“DEP”) of the release on November 30, 2001. Bay State Gas Company (“Bay State Gas”) has since proceeded with response actions with respect to this release. The City will make available,

as a part of this RFP process, all environmental reports regarding the Property in the City's possession. The City advises bidders/developers that additional information is also available at DEP. See DEP Release Tracking Number 1-14222. Bay State Gas has prepared a summary of information for this RFP with respect to environmental conditions and related matters including DEP regulatory status, limitations on use of the Property and Bay State Gas commitments regarding environmental conditions including those relating to the Developer's reuse of the Property.

The Bay State Gas summary is included in this RFP as Exhibit B.

A Bay State Gas prepared CD-ROM of their environmental reports is included in this RFP as Exhibit C.

Developers should contact Bay State Gas with any questions regarding the statement. The Bay State Gas contact person is Bob Cleary, Principal, EH&S Remediation (508) 836-7275, RCleary@NiSource.com. The Bay State Gas summary was prepared by Bay State Gas, not the City, and the City makes no representation or warranty with respect to the accuracy or completeness thereof, nor shall the Bay State Gas summary be deemed to represent the City's position with regard to any factual, legal or other matter.

Round House Parking Lot Surplus--Bid Form

Benefit to the City	In actual dollars*
Proposed Purchase Price due at closing	\$
Projected property tax from property over ten years. (Bidder must document basis of these projections and projected amounts for each year 2007 to 2016. The city's projections of these taxes shall be the sole source of the calculations the city will use in its final evaluation.) (The current tax rate is \$11.73.)	\$
Projected other city collected taxes from property over ten years. (Bidder must document basis of these projections and projected amounts for each year 2007 to 2016. The city's projections of these taxes shall be the sole source of the calculations the city will use in its final evaluation.)	\$
OPTIONAL: \$5,000 for free Pulaski Park internet access	\$
OPTIONAL: \$50,000 for public access elevator	\$
REQUIRED: \$100,000 credit for 30' expansion of Pulaski Park usable area	\$100,000
OPTIONAL: \$10,000/space for extra parking beyond bid required minimum	\$
OPTIONAL: \$20,000 credit for making building LEEDS certified	\$
OPTIONAL: \$100,000 credit for certain Pulaski Park improvements	\$
TOTAL TEN YEAR (2007-2016) PROJECTION OF CITY BENEFITS	\$

**The City will make its final evaluation of total revenue and benefits in 2007 dollars. For this calculation, the City will assume that the proposed purchase price and all required and optional credits are provided in 2007. The City will discount future property and other taxes to current (2007) dollars using the following formula:*

$$\frac{2007 \text{ revenue}}{1} + \frac{2008 \text{ revenue}}{1.05} + \frac{2009 \text{ revenue}}{(1 + 1.05)^2} + \frac{2010 \text{ revenue}}{(1 + 1.05)^3} + \frac{2011 \text{ revenue}}{(1 + 1.05)^4} + \frac{2012 \text{ revenue}}{(1 + 1.05)^5} + \frac{2013 \text{ revenue}}{(1 + 1.05)^6} + \frac{2014 \text{ revenue}}{(1 + 1.05)^7} + \frac{2015 \text{ revenue}}{(1 + 1.05)^8} + \frac{2016 \text{ revenue}}{(1 + 1.05)^9}$$

Round House Parking Lot Surplus
Tax Compliance Certification

Pursuant to M.G.L. Ch. 62C, sec. 49A, I certify under the penalties of perjury that I have, to my best knowledge and belief, complied with the law of the Commonwealth relating to taxes, reporting of employees and contractors, and withholding and remitting child support.

Social Security Number or Federal Identification Number	Signature of Individual or Corporate Name	date
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by: _____
Corporate Officer
(if applicable)

**Round House Parking Lot Surplus
Disclosure Statement: Acquisition or Disposition of Real Property**

For acquisition or disposition of Real Property by the **City of Northampton** the undersigned does hereby state, for the purposes of disclosure pursuant to M.G.L. Chapter 7, Section 40J, of a transaction of relating to real property as follows:

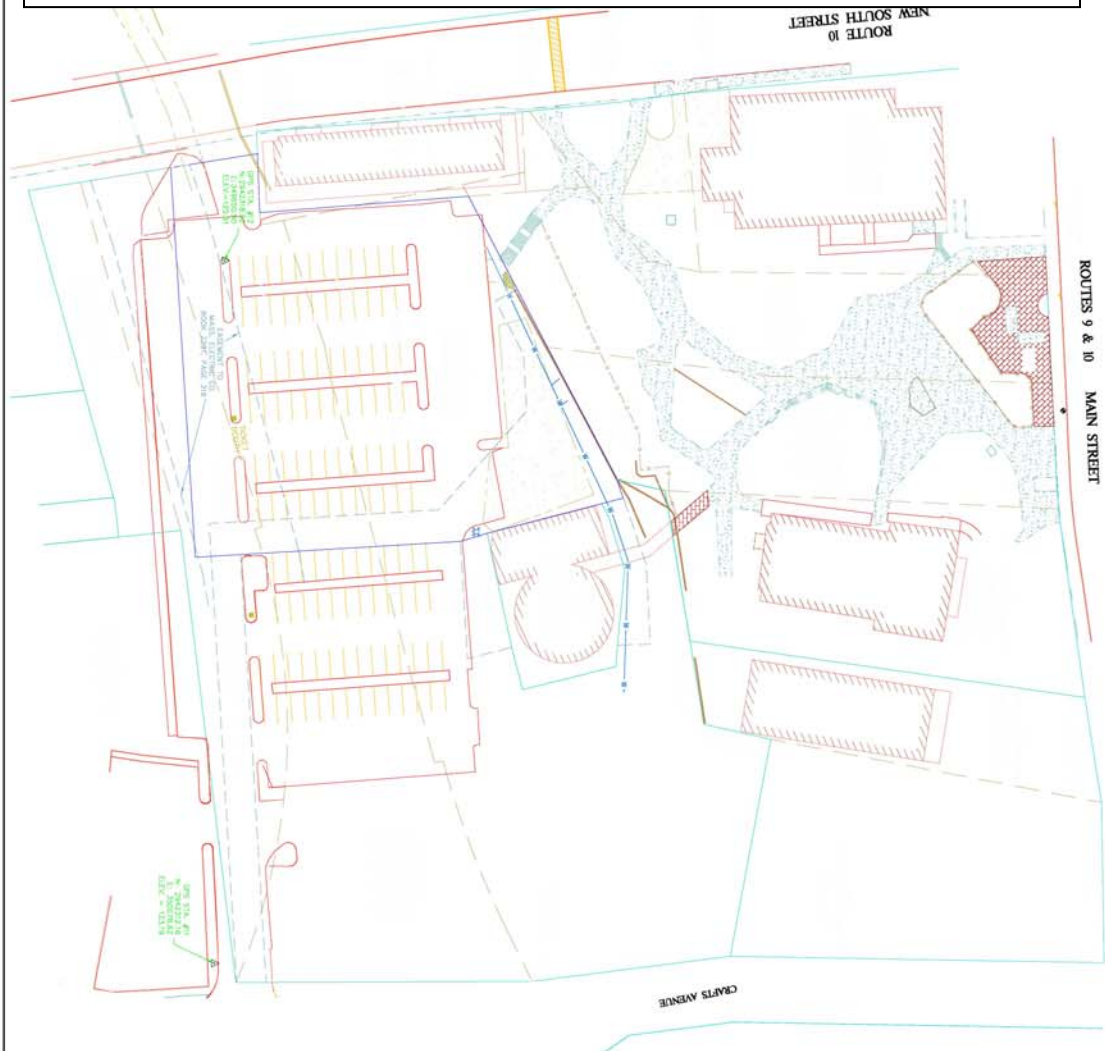
1. Real Property Description: **Property in the City of Northampton** known as the westerly side of the City's Round House Parking Lot, more particularly described as 47,690 square feet shown on the attached survey as "Land Available for Sale" and related additional parcels and easements.
2. Type of transaction: ☒ Sale
3. Seller: City of Northampton
4. Buyer: _____
5. Names and addresses of all persons who have or will have a direct or indirect beneficial interest in the real property described above. Name: _____ Residence _____
6. None of the above mentioned persons is an employee of the City of Northampton, the Division of Capital Asset Management, or an official elected to public office in the Commonwealth of Massachusetts except as noted below: Name: _____ Title or Position: _____
7. This section must be signed by the individual(s) or organization(s) entering into this real property transaction with the public agency named above. If this form is signed on behalf of a corporation or other legal entity, it must be signed by a duly authorized officer of that corporation. The undersigned acknowledges that any changes or additions to item 3 or 4 of this form during the term of any lease or rental will require filing a new disclosure with the Division of Capital Asset Management within 30 days following the change or addition.

The undersigned swears under the pains and penalties of perjury that this form is complete and accurate in all respects:

Signature(s): _____
Printed Name(s): _____
Title (s): _____
Date: _____

<u>Send the executed disclosure statement to:</u>	<u>We will file with:</u>
Wayne Feiden	Division of Capital Asset Management
Office of Planning & Development	Office of the Commissioner c/o Property Transactions Group
City Hall, 210 Main Street	One Ashburton Place
Northampton, MA 01060	Boston, Massachusetts 02108

Exhibit A: Survey (A full copy of the survey is attached)



Surveyed by: *David A. Stetson*
Booked & Returned to the State: 11/29/09
DATE

PLAN OF LAND IN NORTHAMPTON, MASSACHUSETTS PREPARED FOR THE CITY OF NORTHAMPTON PLANNING DEPARTMENT		ROUNDHOUSE RE-USE BOUNDARY SURVEY	HUNTLEY HUNTLEY ASSOCIATES, P.C. SURVEYORS & ENGINEERS LICENSED BY PROFESSIONAL 30 INDUSTRIAL DRIVE EAST NORTHAMPTON, MASSACHUSETTS 01060
PROJECT NO. 05-223	DRAWING NO. 05223		
DATE 11/29/09	SCALE 1" = 50'		
SHEET NO. 1 OF 1			

Exhibit B: The Bay State Gas summary presented below, which continues to the end of this RFP) was prepared by Bay State Gas, not the City, and **the City makes no representation or warranty with respect to the accuracy or completeness thereof, nor shall the Bay State Gas summary be deemed to represent the City's position with regard to any factual, legal or other matter.**

Section I. History and Current Conditions

INTRODUCTION

This Property history and existing environmental conditions information is summarized from the reports titled *Phase II Comprehensive Site Assessment* and *Phase III Remedial Action Plan*, prepared by Woodard & Curran for Bay State Gas to address the requirements of the Massachusetts Contingency Plan (MCP). The Phase II report contains a list of references to other documents which may also contain relevant information about the Property. The complete Phase II and III reports are provided on the accompanying compact disc (CD). While this summary is intended as a helpful guide to bidders, bidders are advised to review the Phase II and III reports, and any other related documents cited therein; neither the City nor Bay State Gas Company are responsible for any inadvertent errors or inconsistencies in this summary.

PROPERTY HISTORY

The Property was formerly owned by the Northampton Gas Light Company (the northern portion of the Property), the City of Northampton and the New York, New Haven, and Hartford Railroad (the southern portion of the Property). Both the railroad and gas light company were originally constructed in the mid-1850s. The southernmost portion of the property was formerly the channel of the Mill River. To abate flooding of downtown, the Army Corps of Engineers diverted the Mill River away from downtown and filled in the former channel.

Until approximately 1950, the Northampton Gas Light Company manufactured the gas that was used for lighting and heat in the Northampton area through an industrial process that converted coal to gas. This manufactured gas plant (MGP) consisted of a number of structures used for storing coal, for manufacturing the gas from coal, and for storing the gas and tars that resulted from the manufacturing process prior to their sale as finished products. The brick roundhouse building and the current municipal building were formerly the property of the Gas Light Company.

Bay State Gas acquired the Northampton Gas Light Company in 1973 and subsequently donated the northern portion of the Property to the City of Northampton, also in 1973. The City of Northampton acquired the part of the Property formerly owned by the railroad in the early 1980s.

SUBSURFACE CONDITIONS

Approximately 35 soil borings have been completed on the Property. Subsurface conditions at the Property consist of fill material overlying a heterogeneous native sand and gravel layer which overlies native clay.

The fill material layer ranges from approximately 6 to 12 feet in thickness and consists of silt, sand, and gravel with some clay, cobbles, brick, coal, wood, and ash. The heterogeneous sand and gravel unit underlies most of the fill material and ranges from 5 to approximately 15 feet in thickness. This unit generally is thickest under the southern portion of the parking lot and becomes thinner toward the north in the vicinity of the approximately 15 foot high retaining wall separating the Roundhouse Parking Lot from properties along Main Street. Across the entire Property, a gray clay underlies the sand and gravel. This clay is the upper portion of the layered clays deposited within the regional former Glacial Lake Hitchcock. The total thickness of this clay beneath the Property is not known, though the clay is expected to be greater than 20 feet thick. The top of clay surface ranges from approximately 10 feet below ground

surface near the retaining wall to approximately 25 feet below ground surface in the central portion of the current parking lot. The top of clay surface generally deepens to the south and east of the retaining wall.

Bedrock was encountered at the one boring location where Bay State needed to look for it. This boring was located near the retaining wall on the northwest corner of the Property. Weathered bedrock was encountered approximately 26 feet below ground surface, underlying the gray clay, and competent, dense rock was encountered at 27 feet below ground surface. The rock was identified as white, black, and gray granodiorite. Bedrock was not encountered at any other subsurface exploration location.

Groundwater occurs approximately 14 to 19 feet below ground surface within the sand and gravel unit. Depth to groundwater is generally deepest at the northern portion of the Property and shallowest in the southern portion of the Property, as surface topography slopes to the south.

Subsurface explorations encountered MGP residuals (an oil-like or tar-like material) at a few locations within the Property. The MGP residual material is not very mobile, because of its very high viscosity. At the location of a former gas holder directly west of the Roundhouse Building, MGP residuals are present approximately 8 feet below ground surface. MGP residuals are also present at the location of a former oil tank between this former gas holder and the western boundary of the Property. South of the former gas holder, MGP residuals were detected directly above the clay layer at depths greater than 15 feet below ground surface.

No MGP-related contamination has been observed on the southern portion of the Property within 15 feet of the ground surface. Some hazardous materials, mainly polynuclear aromatic hydrocarbons, or PAHs, have been detected in soils less than 15 feet below ground surface on the southern portion of the property, formerly owned by the railroad. Such hazardous materials are consistent with historical use of that portion of the Property by the railroad.

Based on these subsurface conditions, an MCP Method 3 Risk Assessment concluded that there is no significant risk to current Property users under existing conditions, given that: (1) direct contact with MGP residuals in soil is unlikely because much of the property is paved; (2) where present, MGP residual material is generally located greater than 10 feet below ground surface; and (3) MGP residuals are not very mobile. Therefore, parking lot users, workers (other than potential utility workers), and residents do not have contact with the MGP residuals under current conditions.

Section II. Regulatory Status

Most of the Property is within the boundaries of a “site” as defined under the MCP. The “Release Tracking Number” for the Site is 1-14222. Bay State Gas is complying with MCP requirements with respect to Site No. 1-14222 and is currently in the process of designing a remedy to attain a permanent or temporary solution under the MCP. The outline of the final remedy is described in the Phase III report and is expected to include focused excavation to remove source areas of residual oil-like and tar-like materials, and removal of a layer of potentially-impacted soil to allow construction of a cap over the northern portion of the Property, in the location of the former

Northampton Gas Light Company parcel. This cap will not increase the current elevation of the parking lot.

The focused excavations will remove impacted material from an approximately 5500 square feet area of the Property and replace this soil with clean material. The cap will consist of a paved parking lot with landscaped islands identical to the current configuration of the Roundhouse Parking lot. The cap will include a geotextile marker layer covered by one foot of clean backfill and then asphalt pavement. In the landscaped areas, the marker layer will be covered by 3 feet of clean back fill and loam. Maintaining the integrity of the cap and preventing future exposures to hazardous materials remaining beneath the surface of the Property will require implementation of an Activity and Use Limitation (AUL). Bay State expects to submit the Phase IV Remedy Implementation Plan, which will describe the anticipated remedy in more detail, to DEP on or about June 30, 2006.

Section III. Commitments Regarding Conditions on the Property at Delivery

As noted above, Bay State Gas has committed to attaining a temporary or permanent solution under the MCP with respect to the Site. Such temporary or permanent solution, known as a Response Action Outcome (RAO), will be obtained in compliance with applicable deadlines under the MCP, though it is not possible at this time to specify precisely when the RAO will be attained. In addition to attaining an RAO with respect to the Property under the MCP, Bay State Gas has agreed, subject to negotiation of specific terms, including without limitation provision of a release running to Bay State Gas with respect to any potential claims that the Bidder might otherwise be able to assert with respect to or arising out of releases of oil or hazardous material at the Property, to provide the following additional benefits to facilitate redevelopment of the Property:

- * Site preparation funds, to limit any potential for increased soil management costs as a result of existing contamination at the Property. The site preparation funds will address two items: (1) incremental costs, beyond those incurred in implementing the remedy described in Section II of this RFP, associated with the removal of MGP residuals from a utility corridor, capable of carrying water, electricity, and gas to the Property, and wastewater away from the Property; and (2) incremental costs associated with removing sufficient MGP-impacted fill so that a geotextile marking layer and one foot of clean fill can be placed below all footings and the building slab. The developer will be responsible for ensuring the backfill is compacted sufficiently to meet its building requirements. Such site preparation funds shall be limited in dollar value to \$250,000. The Bidder will be responsible for documenting expenses directly related to the removal of MGP residuals. Any site preparation costs relating to the presence of hazardous material on the Property beyond \$250,000 shall be the sole responsibility of the Bidder. Alternatively, Bay State Gas may be willing to negotiate with the winning Bidder to provide a comparable level of site preparation services, if it is determined that such services can be efficiently provided by Bay State Gas or its contractor during implementation of the cleanup.

- * Development of a Soil Management Plan (SMP) and a Health and Safety Plan (collectively, the Plans), to address future work at the Property that may result in contact with hazardous materials. These Plans will address issues related to current conditions at the Property, but will not be tailored to specific development plans that the Bidder may expect to implement. Bidder shall be responsible, at its sole cost and expense, for adapting the Plans to its particular development plans.

- * Development and implementation of a perimeter air monitoring plan during excavation and soil management activities. Although Bay State Gas does not currently expect excavation or soil management to result in any odors which could present a significant risk to human health, Bay State Gas is reserving the right to shut down excavation or soil management activities, if such activities would pose such a threat or otherwise present a nuisance condition. Bay State Gas has committed to working cooperatively with the winning Bidder to resolve any such situation to allow development activities to recommence as promptly as possible. Included within the \$250,000 commitment described above, Bay State Gas is budgeting up to \$25,000 for odor suppressant foam or equivalent odor suppression technology.

Section IV. Limitations on Property Use

As noted in Section II, future use of the Property will be limited in certain ways, through imposition of an AUL, which is a legally binding document that will be recorded in the Registry of Deeds and will run with the land. Bay State Gas Company expects to place the AUL on the Property after the active remedy has been implemented, because the necessary scope of the AUL will not be finally determined until that time. It is currently expected that the AUL would be imposed sometime during 2007. To the extent that title to the Property passes to the winning bidder before the AUL has been recorded, each Bidder agrees, as a condition to its bid, to execute and to allow recording of the AUL.

To provide the bidders with a preliminary understanding of the likely form of the AUL, a copy of a draft AUL is attached to this RFP. The final AUL is expected to be similar in sum and substance. However, it may be more or less restrictive and the winning Bidder agrees, as a condition to its bid, to execute and allow recording of an AUL, even if

different. Even if changed, the AUL will allow construction of a building on the Property for commercial and/or residential use, so long as future exposures to subsurface soils are appropriately limited.

Without limiting the Bidder's obligations to comply with the AUL, note is specifically made that excavation of soils at the Property may release hazardous materials into the air and could cause noxious odors. It is hoped that the active soil remedy that is being planned for the Property will remove contamination that could cause odors within the likely depth of excavation for new building construction. However, the possibility of residual contamination that could cause odors during excavation will remain. Therefore, the AUL will require that all excavation be performed in compliance with the SMP. Bay State Gas Company may oversee compliance with the SMP and the Bidder agrees, as a condition of submitting a bid, that Bay State Gas Company may enforce compliance with the SMP, including through injunctive relief.

In addition to complying with the terms of the AUL and the provisions of the MCP, if the Bidder wishes to redevelop the Property in a manner inconsistent with the specific limitations contained therein, then an LSP shall render an Opinion, in accordance with the AUL and in compliance with the MCP, as to whether the proposed changes will present a significant risk of harm to health, safety, public welfare or the environment. If such LSP is not an LSP designated by Bay State Gas Company, then the Opinion of such LSP shall be subject to the approval and consent of Bay State Gas Company. Any and all requirements set forth in such LSP Opinion shall be satisfied before any such activity or use is commenced. The Bidder shall be responsible, at its sole cost and expense, for any revisions to the AUL and any costs associated with any changes in activities and uses.

Form 1075**NOTICE OF ACTIVITY AND USE LIMITATION**

M.G.L. c. 21E, § 6 and 310 CMR 40.0000

Disposal Site Name: Former Northampton Gas Works DEP Release
Tracking No.: 1-14222

This Notice of Activity and Use Limitation ("Notice") is made as of this -----day
of

, 2006, by the City of Northampton, 210 Main Street, Northampton, MA 01060, together with its
successors and assigns (collectively "Owner").

W I T N E S S E T H:

WHEREAS, the City of Northampton, is the owner in fee simple of those certain parcels of land located in
Northampton, Hampshire County, Massachusetts with the buildings and improvements thereon, pursuant to deeds recorded
with the Hampshire County Registry of Deeds in Book __, Page __;

WHEREAS, said parcel of land, which is more particularly bounded and described in Exhibit A, attached
hereto and made a part hereof ("Property") is subject to this Notice of Activity and Use Limitation. The Property is shown
on a plan recorded in the Hampshire County Registry of Deeds in Plan Book __, Page __;

WHEREAS a portion of the Property ("Portion of the Property") is subject to this Notice of Activity and
Use Limitation. The Portion of the Property is more particularly bounded and described in Exhibit A-1, attached hereto and
made a part hereof. The Portion of the Property is shown on a sketch plan attached hereto and filed herewith for registration;

WHEREAS, the Property comprises part of a disposal site as the result of a release of oil and/or hazardous
material. Exhibit B is a sketch plan showing the relationship of the Property subject to this Notice of Activity and Use
Limitation to the boundaries of said disposal site existing within the limits of the Property and to the extent such boundaries
have been established. Exhibit B is attached hereto and made a part hereof; and

WHEREAS, one or more response actions have been selected for Portions of the Disposal Site in
accordance with M.G.L. c. 21E ("Chapter 21E") and the Massachusetts Contingency Plan, 310 CMR 40.0000 ("MCP").
Said response actions are based upon (a) the restriction of human access to and contact with oil and/or hazardous material
in soil and/or groundwater and/or (b) the restriction of certain activities occurring in, on, through, over or under the Property.
The basis for such restrictions is set forth in an Activity and Use Limitation Opinion ("AUL Opinion"), dated __, (which
is attached hereto as Exhibit C and made a part hereof);

NOW, THEREFORE, notice is hereby given that the activity and use limitations set forth in said AUL
Opinion are as follows:

1. Activities and Uses Consistent with the AUL Opinion. The AUL Opinion provides that a condition of No Significant
Risk to health, safety, public welfare or the environment exists for any foreseeable period of time (pursuant to 310 CMR
40.0000) so long as any of the following activities and uses occur on the Portion of the Property:

- (i) Use or development of the Site as an industrial, commercial, or retail property, or use or development of the Site for
vehicular parking, vehicular traffic, bicycle path, pedestrian, or other activities and uses which would not compromise
the structural integrity of any existing or any replacement surface barrier (e.g. the current pavement, current buildings,
and/or a "barrier" as defined in section 1(ii) below) and/or allow direct contact with soil beneath that barrier;
- (ii) Use of the Portion of the Property as a residence, school, daycare, nursery, playground, recreational area, etc. where
a child is likely to be present, provided that access to subsurface soils is prevented through the use of a barrier to direct

contact on the proposed area. This barrier would consist of either an impermeable barrier such as asphalt or concrete and for all but existing buildings, at least 1 foot of clean soil, or a permeable barrier consisting of a minimum of three feet of imported clean fill above a geotextile marker layer in playground or landscaped areas;

(iii) Excavation and/or removal of subsurface soils or pavement and associated handling and processing (e.g. size reduction, etc.) associated with limited shortterm (three months or less) underground utility and/or construction work within the designated AUL Site, provided that it is conducted in accordance with the performance standards of the MCP. Such activities, including emergency actions to repair damaged or defective utilities, must be conducted in accordance with the performance standards for Utility Related Abatement Measures (URAMs) set forth by the MCP at 310 CMR 40.0460 or conducted under the direction of an LSP. Excavation activities must be conducted in accordance with the Soil Management Procedures pursuant to 310 CMR 40.0030, and/or all applicable worker health and safety practices pursuant to 310 CMR 40.0018, and must ensure prompt repair/replacement of the pavement with a comparable barrier immediately following the completion of the project;

(iv) Maintenance activities related to the repair, resurfacing and/or replacement of buildings, pavement, parking lots, sidewalks, bicycle paths, and driveways, provided that such activities do not result in contact with potentially contaminated soils. Potentially contaminated soils are located immediately beneath buildings that pre-date this Notice, beneath an at least 1 foot thick layer of clean soil under new buildings, pavement, and concrete, and an at least 3 foot thick layer of clean soil under landscaped areas. Maintenance activities are allowed provided they do not extend below these depths or compromise contaminated soil located beneath these depths and provided that the barrier is replaced; (v) Landscape activities, including lawn mowing, mulching, and/or planting of flowers and shrubs that do not result in disturbance or direct contact with existing potentially contaminated soil that is located at a depth of over 3 feet below the ground surface beneath a geotextile marker layer, and provided that the barrier is replaced;

(vi) Activities and uses which are not identified by this Notice as being inconsistent with maintaining a condition of No Significant Risk; and

(vii) Such other activities and uses which, in the Opinion of an LSP, shall present no greater risk of harm to health, safety, public welfare, or the environment than the activities and uses set forth in this paragraph.

2. Activities and Uses Inconsistent with the AUL Opinion. Activities and uses which are inconsistent with the objectives of this Notice of Activity and Use Limitation, and which, if implemented at the Portion of the Property, may result in a significant risk of harm to health, safety, public welfare or the environment or in a substantial hazard, are as follows:

(i) Except as provided in sections 1(iv) or 1(v) above, activities and/or uses which involve the removal and/or disturbance of the pavement, other surface barriers, or buildings in the Portion of the Property and/or the disturbance of the contaminated soil located immediately beneath the pavement, other surface barriers, or buildings without prior development of a Soil Management Plan and a Health and Safety Plan in accordance with Obligations (i) and (ii) of Paragraph 3 below;

(ii) Relocation of the contaminated soil from beneath the pavement, other surface barriers, or buildings in the Portion of the Property, unless an LSP renders an Opinion which states that such relocation is consistent with maintaining a condition of No Significant Risk;

(iii) Construction of any building at the site which does not meet the residential building assumptions of the vapor intrusion model and risk characterization used to support the Response Action Outcome for the Site without prior evaluation by a LSP who renders an Opinion which states that the use of such building is consistent with maintaining a condition of No Significant Risk;

(iv) Activities and/or uses which cause physical or chemical deterioration, breakage, or structural damage to the pavement, other surface barriers, or buildings, unless the pavement or other surface barrier is replaced immediately following such activities as allowed under sections 1 (iii), 1 (iv), and 1 (v) above;

(v) Use of soils at the Property for the cultivation of fruits and vegetables intended for human consumption; (vi) Any activity, including, but not limited to, grading or excavation, which involves disturbance, relocation and/or removal of soil from the Portion of the Property, without the prior development and implementation of a Soil Management Plan and Health and Safety Plan in accordance with Obligations (i) and (ii) of Paragraph 3 below, and restoration of the soil cap and/or pavement as described in Obligation (iii) of Paragraph 3 below; and,

(vii) Any activity that results in the disturbance or breach of any existing building foundation slab, except as allowed in section 1(iii) and 1(iv) above.

(viii) Activities and/or uses that may decrease the thickness of the soil cap in landscaped areas of the property, except as allowed in sections 1(v) and 1 (vi) above.

3. Obligations and Conditions Set Forth in the AUL Opinion. If applicable, obligations and/or conditions to be undertaken and/or maintained at the Portion of the Property to maintain a condition of No Significant Risk as set forth in the AUL Opinion shall include the following:

(i) A Soil Management Plan must be prepared by an LSP and implemented prior to the commencement of any activity that will disturb the contaminated soil located immediately beneath the pavement, other surface barriers, or buildings. The Soil Management Plan must be prepared in accordance the guidelines discussed in the Activity and Use Limitation Opinion attached hereto as Exhibit C. Workers who may come in contact with the soil must be informed of the requirements of the Soil Management Plan;

(ii) A Health and Safety Plan must be prepared and implemented in accordance with the guidelines discussed in the Activity and Use Limitation Opinion attached hereto as Exhibit C prior to the commencement of any activity which involves the removal and/or disturbance of the pavement, other surface barriers, or buildings and/or will disturb the underlying contaminated soil within the Portion of the Property;

(iii) The pavement, other surface barriers, or buildings within the Portion of the Property must be reasonably maintained, repaired and/or replaced with a comparable barrier to prevent future exposures to underlying contaminated soil immediately following the completion of any activity which involves its removal and/or disturbance;

(iv) The pavement, other surface barriers, or buildings must be maintained within the designated Portion of the Property to ensure that the contaminated soil located beneath the pavement, other surface barriers, or buildings remains inaccessible;

(v) Semi-annual inspections and associated record-keeping activities must be performed to confirm that the pavement, other surface barriers, or buildings are being properly maintained to prevent exposure(s) to contaminated soil located immediately beneath the pavement, other surface barriers, or buildings;

(vi) Specifications for future buildings to be constructed at the site must be compared to the assumptions of the vapor intrusion model and risk characterization used to support the Response Action Outcome for the site and re-evaluated by an LSP who must render an Opinion as to whether site conditions, activities, and/or uses associated with the future building potentially pose a significant risk of harm to human health; and

(vii) Response actions must be conducted in accordance with the Massachusetts Contingency Plan, 310 CMR 40.0000, should an LSP Opinion rendered pursuant to Obligation (i) conclude that future site uses and activities, including exposures associated with future building construction, are inconsistent with maintaining a condition of No Significant Risk.

4. Proposed Changes in Activities and Uses. Any proposed changes in activities and uses at the Portion of the Property which may result in higher levels of exposure to oil and/or hazardous material than currently exist shall be evaluated by an LSP who shall render an Opinion, in accordance with 310 CMR 40.1080 et seq., as to whether the proposed changes will present a significant risk of harm to health, safety, public welfare or the environment. Any and all requirements set forth in the Opinion to meet the objective of this Notice shall be satisfied before any such activity or use is commenced.

5. Violation of a Response Action Outcome. The activities, uses and/or exposures upon which this Notice is based shall

not change at any time to cause a significant risk of harm to health, safety, public welfare, or the environment or to create substantial hazards due to exposure to oil and/or hazardous material without the prior evaluation by an LSP in accordance with 310 CMR 40.1080 et seq., and without additional response actions, if necessary, to achieve or maintain a condition of No Significant Risk or to eliminate substantial hazards.

If the activities, uses, and/or exposures upon which this Notice is based change without the prior evaluation and additional response actions determined to be necessary by an LSP in accordance with 310 CMR 40.1080 et seq., the owner or operator of the Portion of the Property subject to this Notice at the time that the activities, uses and/or exposures change, shall comply with the requirements set forth in 310 CMR 40.0020.

6. Incorporation Into Deeds, Mortgages, Leases, and Instruments of Transfer. This Notice shall be incorporated either in full or by reference into all future deeds, easements, mortgages, leases, licenses, occupancy agreements or any other instrument of transfer, whereby an interest in and/or a right to use the Property or a portion thereof is conveyed.

Owner hereby authorizes and consents to the filing and recordation and/or registration of this Notice, said Notice to become effective when executed under seal by the undersigned LSP, and recorded and/or registered with the appropriate Registry of Deeds and/or Land Registration Office(s).

WITNESS the execution hereof under seal this _____ day of _____, 20 ____.

{LSP seals, signature lines and notary certificates omitted from this draft.}

**DRAFT ACTIVITY AND USE LIMITATION OPINION Roundhouse Parking Lot, Northampton, Massachusetts
DEP Site #1-14222**

In accordance with the requirements of 310 CMR 40.1074, this Activity and Use Limitation Opinion has been prepared for a parcel of land owned by the City of Northampton, located on Crafts Avenue, Northampton, Massachusetts, Hampshire County, Massachusetts 01060 (the "Site"). As of the date of this Activity and Use Limitation Opinion, the property is zoned for commercial use.

Site History

The Site was initially developed around 1855 with the construction of the New Haven and Northampton Railroad and the Northampton Gas Light Company manufactured gas plant (MGP). Much of the Site was used for the manufacturing, storage, and distribution of coal gas. Gas production was discontinued in 1951. Most of the gas manufacturing structures formerly present on the property were demolished in 1962. The property and remaining structures were donated to the City in 1973.

Assessment activities have been conducted at the site between 2001 and 2005 in accordance with the requirements of the Massachusetts Contingency Plan (MCP). The Phase II Comprehensive Site Assessment resulted in a detailed conceptual site model for the Disposal Site. Some MGP impacted material, including ash, coal, and clinkers, was likely used as fill material within the footprint of the former facility, or was graded and re-worked around the facility. Oily MGP residuals also were likely released from containers or through foundations into the subsurface. These MGP residuals migrated downward through the heterogeneous subsurface fill and glaciofluvial sand and gravel underlying the facility. Clay and other fine-grained, impermeable soil are present below the sand and gravel at depths ranging from 10 to 35 feet below ground surface. Where these fine grained clay or soils were encountered, the dense oil either accumulated at that location, or laterally migrated along the upper surface of the clay. Some MGP constituents have dissolved in groundwater and have migrated advectively with the natural groundwater flow.

Reason for Activity and Use Limitation

To limit future potential exposures on the Portion of the Property subject to the AUL (hereinafter Portion of the Property; see Exhibit A-1), certain activity and use restrictions will be placed on that Portion of the Property. Specifically, this AUL will prevent exposures of certain receptors (i.e. children, trespassers, and residents) to MGP residuals in the shallow subsurface. A Method 3 risk characterization was completed to evaluate potential risks associated with the MGP-related compounds in the subsurface fill, soil, and groundwater. There are no risks of harm to human health posed by the MGP residuals that are present at the disposal site under current activities and uses. Humans are not able to contact the MGP residuals in their present location under present activities and uses. However, results of the risk characterization indicate a condition of No Significant Risk of harm to human health, public welfare and the environment does not exist at the Site under reasonably foreseeable future conditions. In the Portion of the Property implementation of this AUL will limit future potential exposures to MGP residuals that are present near the ground surface. In the remainder of the Property not subject to the AUL, no MGP residuals were observed within 15 feet of the ground surface. There are polynuclear aromatic hydrocarbons present in fills and soils at depths less than 15 feet below ground surface in the remainder of the Property not subject to the AUL, but these compounds appear to be related to the former use of this area by the railroad.

Permitted Activities and Uses

(i) Use or development of the Portion of the Property as an industrial, commercial, or retail property, or use or development of the Site for vehicular parking, vehicular traffic, bicycle path, pedestrian, or other activities and uses which would not compromise the structural integrity of any existing or any replacement surface barrier (e.g. the current pavement, current buildings, and/or a “barrier” as defined in section 1 (ii) below) and/or allow direct contact with soil beneath that barrier;

(ii) Use of the Portion of the Property as a residence, school, daycare, nursery, playground, recreational area, etc. where a child is likely to be present, provided that access to subsurface soils is prevented through the use of a barrier to direct contact on the proposed area. This barrier would consist of either an impermeable barrier such as asphalt or concrete and for all but existing buildings, at least 1 foot of clean soil, or a permeable barrier consisting of a minimum of three feet of imported clean fill above a geotextile marker layer in playground or landscaped areas;

(iii) Excavation and/or removal of subsurface soils or pavement and associated handling and processing (e.g. size reduction, etc.) associated with limited short-term (three months or less) underground utility and/or construction work within the designated Portion of the Property, provided that it is conducted in accordance with the performance standards of the MCP. Such activities, including emergency actions to repair damaged or defective utilities, must be conducted in accordance with the performance standards for Utility Related Abatement Measures (URAMs) set forth by the MCP at 310 CMR 40.0460 or conducted under the direction of an LSP. Excavation activities must be conducted in accordance with the Soil Management Procedures pursuant to 310 CMR 40.0030, and/or all applicable worker health and safety practices pursuant to 310 CMR 40.0018, and must ensure prompt repair/replacement of the pavement with a comparable barrier immediately following the completion of the project;

(iv) Maintenance activities related to the repair, resurfacing and/or replacement of buildings, pavement, parking lots, sidewalks, bicycle paths, and driveways, provided that activities do not result in contact with potentially contaminated soils. Potentially contaminated soils are located immediately beneath buildings that pre-date this agreement, beneath an at least 1 foot thick layer of clean soil under new buildings, pavement, and concrete, and an at least 3 foot thick layer of clean soil under landscaped areas. Maintenance activities are allowed provided they do not extend below these depths or compromise contaminated soil located beneath these depths and provided that the barrier is replaced;

(v) Landscape activities including lawn mowing, mulching, and/or planting of flowers and shrubs that does not result in disturbance or direct contact with existing potentially contaminated soil that is located at a depth of over 3 feet below the ground surface beneath a geotextile marker layer, and provided that the barrier is replaced;

(vi) Activities and uses which are not identified by this Notice as being inconsistent with maintaining a condition of No Significant Risk; and

(vii) Such other activities and uses which, in the Opinion of an LSP, shall present no greater risk of harm to health, safety, public welfare, or the environment than the activities and uses set forth in this paragraph.

Activities and Uses Inconsistent with the AUL Opinion.

(i) Except as noted in sections 1(iv) or 1(v) above, activities and/or uses which involve the removal and/or disturbance of the pavement, other surface barriers, or buildings in the Portion of the Property and/or the disturbance of the contaminated soil located immediately beneath the pavement, other surface barriers, or buildings without prior development and implementation of a Soil Management Plan and a Health and Safety Plan in accordance with Obligations (i) and (ii) below;

(ii) Relocation of the contaminated soil from beneath the pavement, other surface barriers, or buildings in the Portion of the Property unless an LSP renders an Opinion which states that such relocation is consistent with maintaining a condition of No Significant Risk;

(iii) Construction of any building at the site which does not meet the residential building assumptions of the vapor intrusion model and risk characterization used to support the Response Action Outcome for the Site without prior evaluation by a LSP who renders an Opinion which states that the use of such building is consistent with maintaining a condition of No Significant Risk;

(iv) Activities and/or uses which cause physical or chemical deterioration, breakage, or structural damage to the pavement, other surface barriers, or buildings, unless the pavement or other surface barrier is replaced immediately following such activities as allowed under sections 1 (iii), 1 (iv), and 1 (v) above;

(v) Use of soils at the Property for the cultivation of fruits and vegetables intended for human consumption;

(vi) Any activity including, but not limited to, grading or excavation, which involves disturbance, relocation and/or removal of soil from the Portion of the Property, without the prior development and implementation of a Soil Management Plan and Health and Safety Plan in accordance with Obligations (i) and (ii) below, and restoration of the soil cap and/or pavement as described in Obligation (iii) below;

(vii) Any activity that results in the disturbance or breach of any existing building foundation slab, except as allowed in section 1(iii) and 1(iv) above; and,

(viii) Activities and/or uses that may decrease the thickness of the soil cap in landscaped areas of the property, except as allowed in sections 1(v) and 1 (vi) above.

Obligations and Conditions Set Forth in the AUL Opinion.

(i) A Soil Management Plan must be prepared by an LSP and implemented prior to the commencement of any activity that will disturb the contaminated soil located immediately beneath the pavement, other surface barriers, or buildings. The Soil Management Plan must be prepared in accordance the guidelines discussed in the Activity and Use Limitation opinion. Workers who may come in contact with the soil must be informed of the requirements of the Soil Management Plan;

(ii) A Health and Safety Plan must be prepared and implemented in accordance with the guidelines discussed in the Activity and Use Limitation Opinion prior to the commencement of any activity which involves the removal and/or disturbance of the pavement, other surface barriers, or buildings and/or will disturb the underlying contaminated soil within the Portion of the Property;

(iii) The pavement, other surface barriers, or buildings within the Portion of the Property must be reasonably maintained, repaired and/or replaced with a comparable barrier to prevent future exposures to underlying contaminated soil immediately following the completion of any activity which involves its removal and/or disturbance;

(iv) The pavement, other surface barriers, or buildings must be maintained within the designated Portion of the Property to ensure that the contaminated soil located beneath the pavement, other surface barriers, or buildings remains inaccessible;

(v) Semi-annual inspections and associated record-keeping activities must be performed to confirm that the pavement, other surface barriers, or buildings are being properly maintained to prevent exposure(s) to contaminated soil located immediately beneath the pavement, other surface barriers, or buildings;

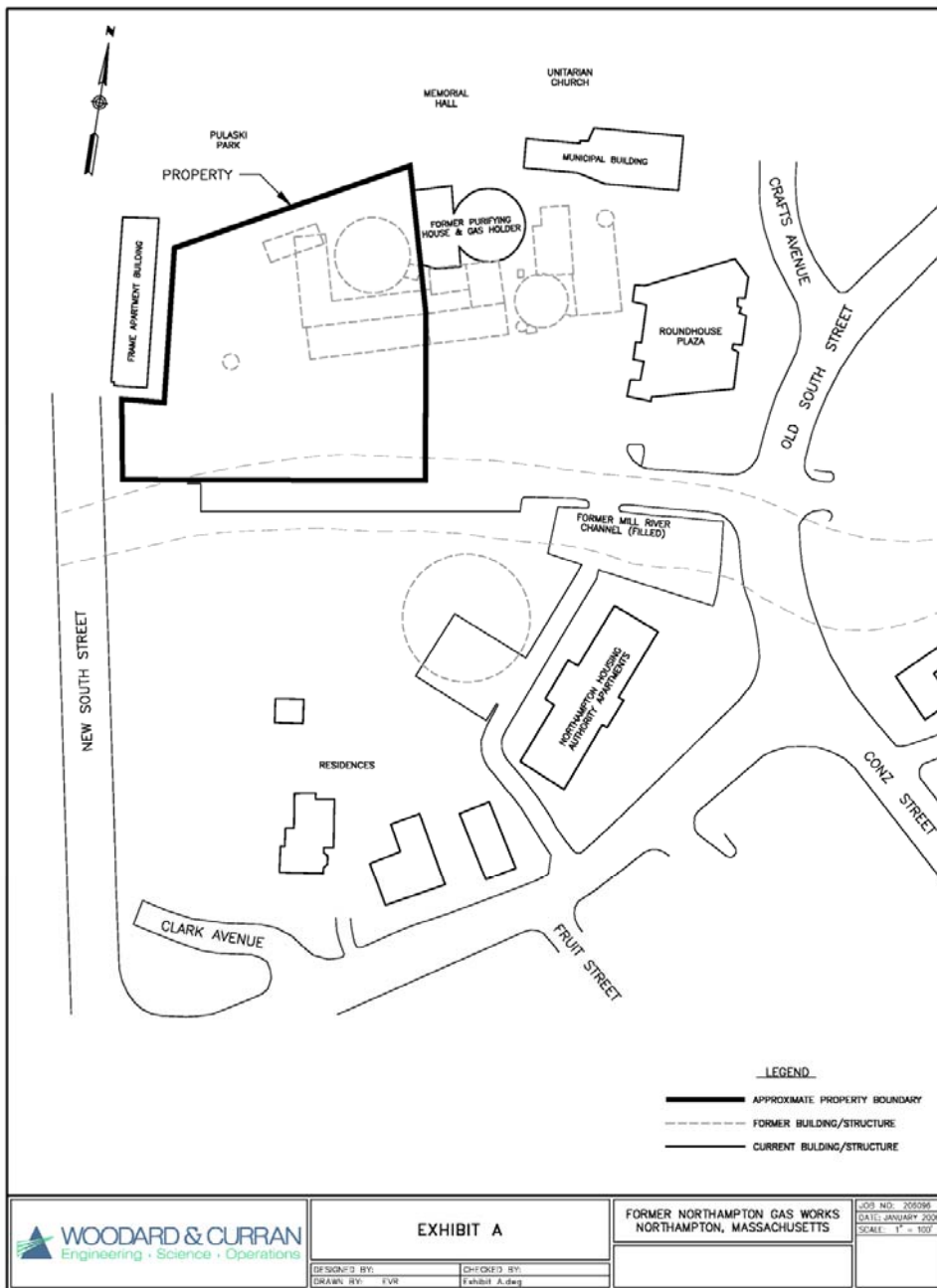
(vi) Specifications for future buildings to be constructed at the site must be compared to the assumptions of the vapor intrusion model and risk characterization used to support the Response Action Outcome for the site and re-evaluated by an LSP who must render an Opinion as to whether site conditions, activities, and/or uses associated with the future building potentially pose a significant risk of harm to human health; and

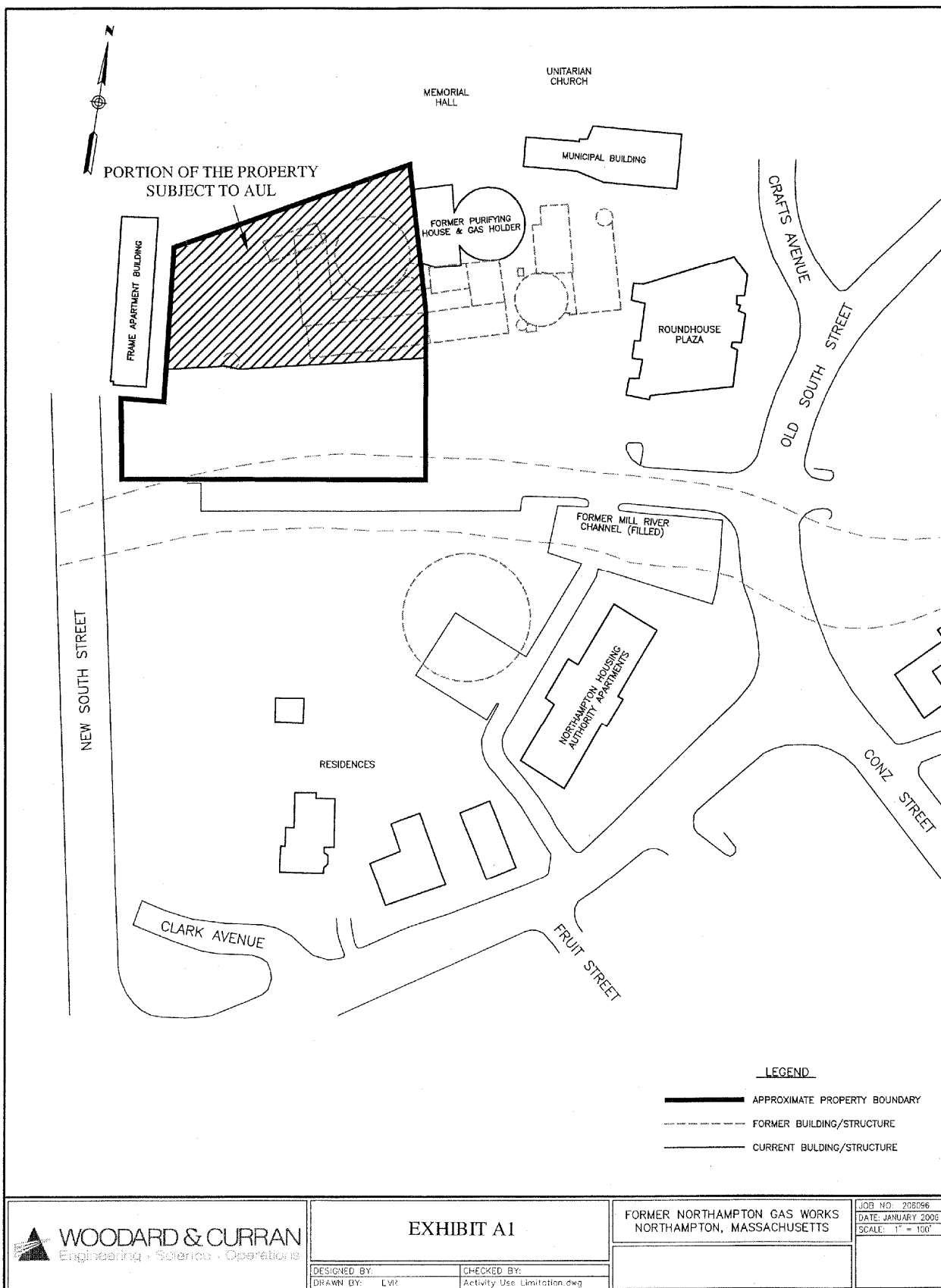
(vii) Response actions must be conducted in accordance with the Massachusetts Contingency Plan, 310 CMR 40.0000, should an LSP Opinion rendered pursuant to Obligation (i) conclude that future site uses and activities, including exposures associated with future building construction, are inconsistent with maintaining a condition of No Significant Risk.

LSP Signature

The Activity and Use Limitation Opinion presented herein was prepared on MONTH DAY, YEAR by:

LSP SIGNATURE





 WOODARD & CURRAN Engineering • Science • Operations	EXHIBIT A1	FORMER NORTHAMPTON GAS WORKS NORTHAMPTON, MASSACHUSETTS	JOB NO. 205066 DATE: JANUARY 2005 SCALE: 1" = 100'
		DESIGNED BY: DRAWN BY: LVR	CHECKED BY: Activity Use Limitation.dwg

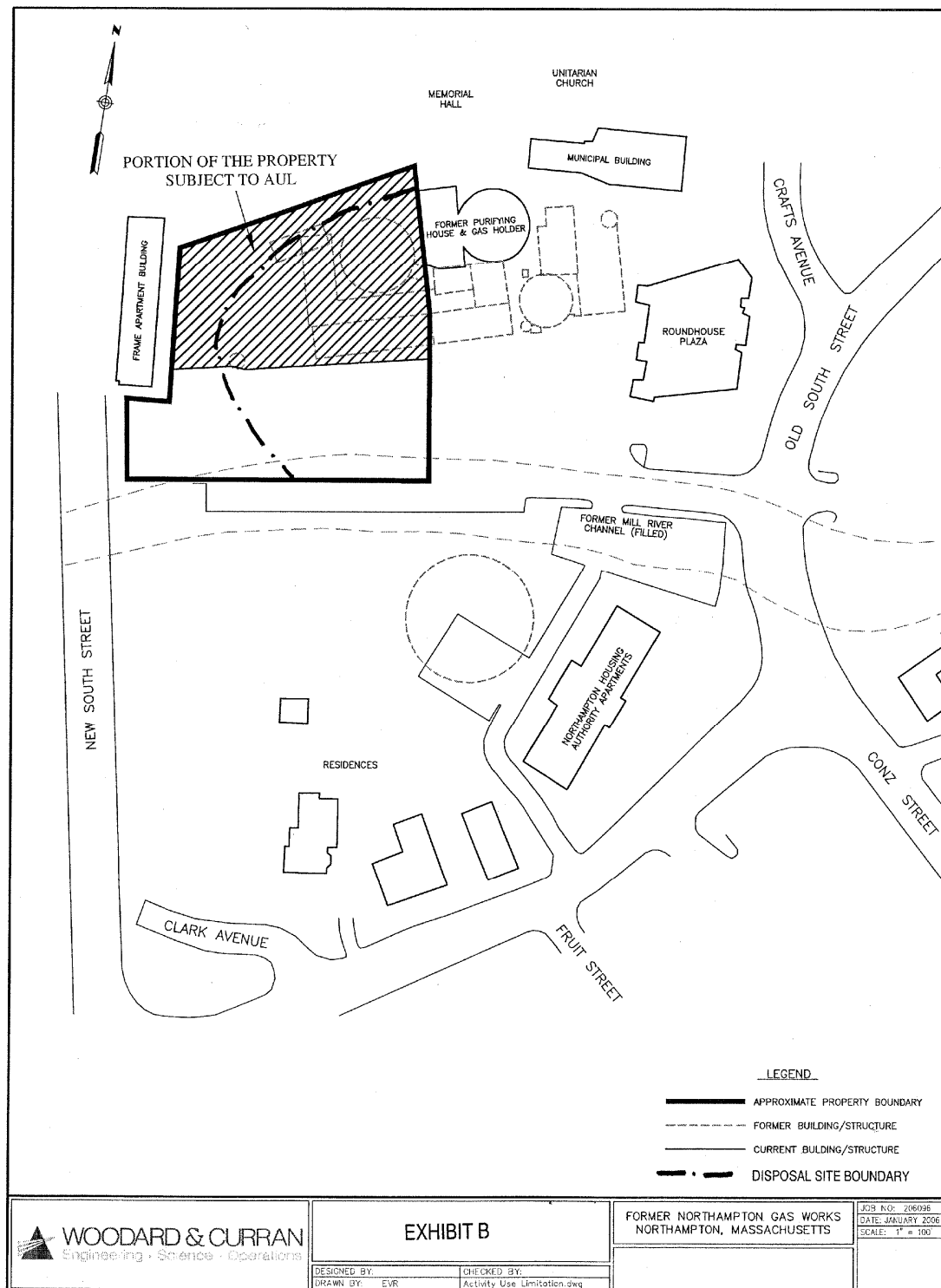


Exhibit C: Bay State Gas prepared CD-ROM of their environmental studies attached